# PROTECTING THE FUTURE TODAY

## The Need For an Efficient National Child Protection Register to Curb Violence Against Children

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# Summary

Violence against children is one of the most pervasive human rights violations. Not only does it strip away children's dignity and safety, but it also violates their constitutional rights to basic education, equality, dignity, and freedom and security. Over the past 25 years, South Africa has experienced increasing incidents of violence against children within the school environment, including corporal punishment and sexual violence. To address this, measures have been put in place to ensure that children are protected, particularly within schools. The government has established two registers, the National Register of Sex Offenders ("NRSO") and the National Child Protection Register ("NCPR"). These two registers are intended to be used together to prevent the employment of persons who have been found unsuitable to work in environments in which they have access to children. This report focuses on the NCPR as a tool for protecting children from violence in schools. It provides an overview of the legal protections afforded to children, sets out the features of the NCPR, and explores the effectiveness of the NCPR safeguards by reviewing how they are implemented. The report proposes additional measures that should be taken to strengthen the implementation of the NCPR.

*"School-based violence is not a problem confined to schools but a complex, multifaceted societal issue. Schools are social spaces within which the power relationships, domination and discrimination practices of the community and wider society are reflected.[1]"*

1. UNICEF, Plan West Africa, Save the Children Sweden West Africa & ActionAid, "Too often in silence: A report on school-based violence in West and Central Africa" (2010) pg 6, available at https://resourcecentre.savethechildren.net/pdf/1941.pdf.

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# 1. Introduction

South Africa is consistently ranked among the top five countries globally for the highest levels of violent crime.[2] Women and children are disproportionately affected by violent crime, and this has led the South African government to declare gender-based violence a national disaster.[3] Violence against women and children is therefore a critical human rights and public health concern globally[4] and is of particular concern in South Africa. Violence against children is defined as constituting "all forms of physical and/ or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power".[5] It occurs in homes, schools, communities and there is also increasing concern over violence against children on digital platforms.[6]

## i. Overview of Violence against Children

The World Health Organization ("WHO") estimates that up to 1 billion children globally aged between two and 17 years experienced physical, sexual or emotional violence or neglect in 2021.[7] These acts of violence against children, which are perpetrated by parents, caregivers, peers, or strangers, can lead to death, severe injuries and negative coping and health risk behaviour.[8]

In South Africa, violence against children is a widespread and pressing problem in need of urgent attention.[9] Compared to the global average, South African children experience excessively high levels of violence.[10] The Optimus Study on Child Abuse, Violence and Neglect in South Africa reported that by the time children reach the age range of 15–17, many of them had experienced a form of sexual, emotional, or physical abuse.[11]

The study found one in five children experienced sexual abuse, one in three experienced physical abuse, one in six reported experiencing emotional abuse, one in eight reported being and one in six reported witnessing violence. Recent data also reveals that between 2021 and 2022, 45% of South African households with children reported some form of violence against children.[12]

2. World Bank Group, "Raising South Africa's Economic Prospects by Curbing Crime" (2023), available at https://www.worldbank.org/en/news/press-release/2023/11/20/raising-south-africa-s-economic-afe-1123-prospects-by-curbing-crime; See also World Population Review, "Crime rate by country" (2026), available at https://worldpopulationreview.com/country-rankings/crime-rate-by-country Accessed 23 March 2026.
3. South African government, "Violence against women is a national disaster that demands national action" (2025), available at https://www.gov.za/blog/violence-against-women-national-disaster-demands-national-action
4. Flor, L. S., Stein, C., Gil, G. F., Khalil, M., Herbert, M., Aravkin et al, Health effects associated with exposure of children to physical violence, psychological violence and neglect: a Burden of Proof study." (2025) 9(6) *Nature Human Behaviour* 1217–1236.
5. Krug, E. G., Dahlberg, L. L., Mercy, J. A., Zwi, A. B., & Lozano, R. (eds.). (2002). "World report on violence and health. Geneva: World Health Organization." Retrieved from: http://www.who.int/violence_injury_prevention/ violence/world report/en/
6. UNICEF, "Drawing a line in digital spaces: Age-based restriction of social media" (2025), available at https://www.unicef.org/documents/policy-note-drawing-line-digital-spaces
7. World Health Organisation, "Violence against children" (2022), available at https://www.who.int/news-room/fact-sheets/detail/violence-against-children Accessed 15 March 2025.
8. Machisa, M. T., Jewkes, R., Shamu, S., Mahlangu, P., & Chirwa, E. "Exposure To Family Violence and Low Parental Connectedness Associated with Depressive Symptoms, Substance Use and Violence Outcomes Among Adolescents in South Africa." (2025) *Journal of Family Violence*.
9. South African Government above n3.
10. Hsiao C, Fry D, Ward CL, Ganz G, Casey T, Zheng X, et al. "Violence against children in South Africa: the cost of inaction to society and the economy." (2018) 3(1) *BMJ Global Health*.000573.
11. Artz L, Burton P, Ward CL, et al Optimus Study South Africa: Technical report. Sexual victimization of children in South Africa: Final report of the Optimus Foundation Study. Zurich, South Africa, UBS Optimus Foundation 2016.
12.Statistics South Africa, Child Series, Volume II: Crime Against Children Lifting the veil on violence against children in South Africa (Report 92-02-02) (2024), available at https://www.statssa.gov.za/publications/92-02-02/92-02-022022.pdf at page 47.

Whilst children are exposed to various forms of violence, statistics reveal the high prevalence of sexual violence against children.[13] In 2022, a report released by Statistics South Africa showed that rape cases for children increased by 6.3% between 2015/16 and 2019/20, whilst sexual assault cases for children increased by 1.4%.[14] Table 1 below illustrates the types of violent crimes against children that were reported to the South African Police Service ("SAPS") between 2015 and 2019. Whilst there were slight decreases in reports of common assault and assault with grievous bodily harm, there was an increase in reports of rape and sexual assault.

It is important to note that violence against children occurs across different settings, including the home, school, and community. A proportion of the crimes reported in Table 1 occurred within the school environment. Violence within schools is of particular concern because it undermines the establishment of a safe environment that is necessary for effective learning. The section that follows focuses on violence in the school environment.

## ii. Violence against children in the school environment

Children spend a substantial portion of their time at school, which should be a safe environment for learning and development. However, schools can sometimes become places of vulnerability to abuse. School violence is typically defined as any acts of violence that take place inside an educational institution, when travelling to and from school, or at a school-related event, as well as on digital platforms.[15] School violence occurs throughout the world and affects a significant proportion of children and adolescents. It is estimated that 246 million children and adolescents experience school violence and bullying in some form every year.[16]

In South Africa, schools have become fertile grounds for various forms of violence, including bullying, corporal punishment, and sexual violence.[17] This is evident from the slew of media reports[18] inquiries by the South African Human Rights Commission ("SAHRC")[19] and interventions by the Department of Basic Education ("DBE") to address the issue of violence by educators and school staff against learners.[20] Although the increasing rates of violence by learners against learners, as well as violence by learners against educators, are also of concern in South Africa.[21]

| | 2015/16 | 2016/17 | 2017/18 | 2018/19 | 2019/20 |
|---|---|---|---|---|---|
| RAPE | 33.6% | 38.9% | 37.5% | 38.7% | 39.9% |
| COMMON ASSAULT | 26.2% | 23.8% | 23.8% | 24.4% | 24.1% |
| BODY HARM | 20.4% | 18.1% | 18.1% | 18.0% | 17.0% |
| SEXUAL ASSAULT | 7.0% | 8.0% | 8.0% | 8.5% | 8.4% |
| COMMON ROBBERY | 7.5% | 5.5% | 5.1% | 5.1% | 4.7% |
| ATTEMPTED MURDER | 2.1% | 2.1% | 2.1% | 2.0% | 2.3% |
| MURDER | 2.0% | 2.2% | 2.2% | 2.0% | 2.1% |
| ABDUCTION (COMMON / STATUTORY LAW) | 0.8% | 0.8% | 0.6% | 0.6% | 0.9% |
| CHILD TRAFFICKING | 0.2% | 0.5% | 0.5% | 0.6% | 0.6% |
| ATTEMPTED COMMON ROBBERY | 0.2% | 0.1% | 0.1% | 0.1% | 0.1% |

**Table 1: Distribution of crimes against children reported to the police between 2015/16 and 2019/20. The percentage of rape, and sexual assault cases increased over the review period. Source: Statistics SA**

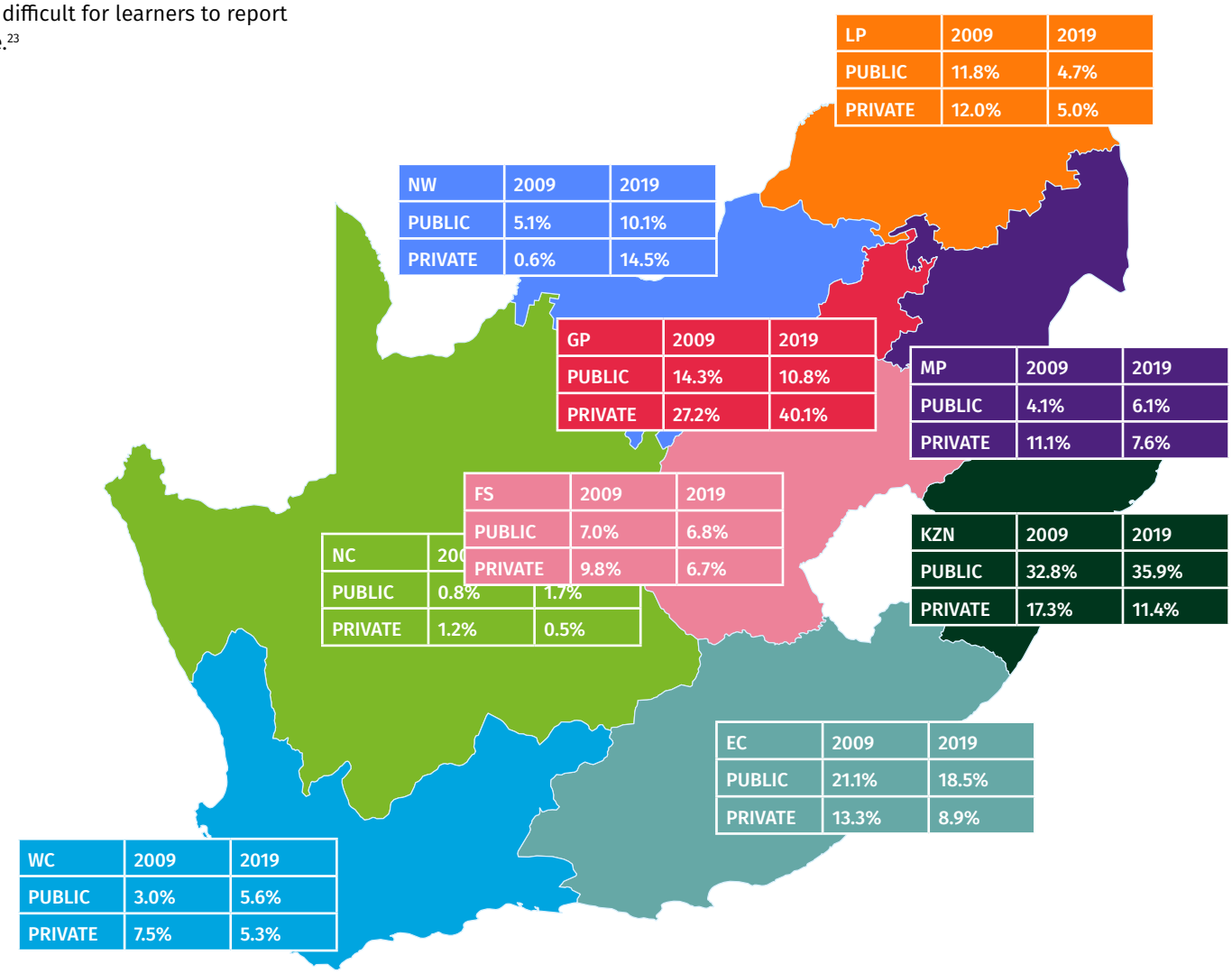
13. Artz et al, above n11.
14. Statistics South Africa, above n12.
15. United Nations Educational, Scientific and Cultural Organization. "*School violence and bullying: Global status report*", available at https://unesdoc.unesco.org/ark:/48223/pf0000246970.
16. Id.
17. Milligan, M., Doss, K., & Zungu, B. "Violence in South African Schools: Trends, psychology, and amelioration" (2024) 42(1) *Perspectives in Education* 4–22, available at https://doi.org/10.38140/pie.v42i1.7251
18. See for example matters cited in Institute for Security Studies: Violent school bullying reflects South Africa's broken society (2025), available at https://issafrica.org/iss-today/violent-school-bullying-reflects-south-africa-s-broken-society; Takudzwa Pongweni, Havens of havoc – the alarming rise of violence in South African schools (2025), available at https://www.dailymaverick.co.za/article/2025-04-10-havens-of-havoc-the-alarming-rise-of-violence-in-south-african-schools.
19. South African Human Rights Commission: Report of the Public Hearing on School-based Violence (2015), available at https://www.sahrc.org.za/home/21/files/School%20Based%20Violence%20Report.pdf; South African Human Rights Commission: Sexual Violence at Schools Stakeholder Roundtable (2026); See also South African Human Rights Commission: Gauteng Provincial Office to conduct stakeholder engagement to discuss the prevalence of violence and discrimination in schools (2024), available at https://www.sahrc.org.za/index.php/sahrc-media/news-2/item/4114-media-advisory-sahrc-gauteng-provincial-office-to-conduct-stakeholder-engagement-to-discuss-the-prevalence-of-violence-and-discrimination-in-schools.
20. The National School Safety Framework (2016), available at https://www.education.gov.za/Portals/0/Documents/Publications/School%20Safety%20Framework%202016.pdf; See also The Collaborative Implementation Protocol between the Department of Basic Education and the South African Police Services (2025), available at https://www.education.gov.za/Portals/0/Documents/Publications/2026/School%20Safety/FINAL%20SIGNED%20DBE_SAPS%20PROTOCOL%202025.pdf?ver=2026-02-12-121710-743

**This report focuses on violence and abuse by educators. The reason for focusing on violence by educators is two-fold. First, educators are considered *in loco parentis*, meaning that they have a legal and moral duty of care as parents/ legal guardians towards learners.[22]**

Second, educators exercise authority over learners, which they may use to manipulate and intimidate learners, making it difficult for learners to report the abuse.[23]

Month after month, the media reports incidents of violence against children, including in the form of corporal punishment or sexual violence. These reports paint a grim picture: children aspiring for an education to secure a better future, instead exposed to pervasive violent abuse in some instances, leading to fatalities.[24] The problem is not new, but the surge of violence in primary and secondary public schools is alarming. In 2019, the majority of children who experienced violence at school attended primary school, while 29.2% attended secondary school.[25] Furthermore, 96.4% of children who experienced a form of violence at school attended public schools whilst 3.6% attended private schools.[26] Figure 1 presents the number of children

**Figure 1: Percentage of children attending public or private school who experienced violence at school in 2009 and in 2019 across all nine provinces. Except for the North West and Gauteng provinces, the percentages children experiencing violence in private schools was lower in 2019 compared to 2009. Source, Statistics SA.**




21. Venketsamy, R. (2024). "Teachers' experiences of violence in South African: A Gauteng case study". Perspectives in Education, 42(1), 162–176 available at https://journals.ufs.ac.za/index.php/pie/article/view/7168/4980.
22. *Mhlongo v Member of the Executive Council of Gauteng Department of Education* (40579/2021) [2024] ZAGPPHC 1056; M.E.M and Others v Minister of Basic Education and Others (1897/2021) [2025] ZANWHC 164.
23. Patterson, K and Pooe, T "*Sexual Violence in Schools*" Chapter 19 in "Education Rights Handbook" 2022 *SECTION27* 395, 400 available at https://section27.org.za/basic-education-rights/Basic%20Education%20Handbook%20-%20Chapter%2019.pdf.
24. Koketso Phasha "Outcry over pupil's death at Huhudi Secondary School: A call to end corporal punishment in schools" (2025), available at https://themercury.co.za/the-star/news/2025-08-14-outcry-over-pupils-death-at-huhudi-secondary-school-a-call-to-end-corporal-punishment-in-schools/
25. Statistics South Africa, above n12.
26. Id.

attending public or private schools who experienced violence at school. Whilst KwaZulu-Natal and the Eastern Cape had the highest percentages of children in public schools who experienced violence at school, Gauteng and the North-West provinces recorded the highest percentages of children experiencing violence in private school. Notably, between 2009 and 2019, despite being declared unlawful, corporal punishment ranked as the most common violence experienced by learners.[27] In 2024/25, the South African Council of Educators ("SACE") reported that corporal punishment made up 46% of the complaints lodged to it.[28]

There is also a clear gender dynamic involved in violence against children. Between 2015 and 2019, girls were more likely than boys to experience some form of violence, corporal punishment or verbal abuse at school from a school official or other learners.[29] In 2011, the United Nations Committee on the Convention for the Elimination of all forms of Discrimination against Women ("CEDAW") raised "[g]rave concerns about the high number of girls who suffer sexual abuse and harassment in schools in South Africa, by both educators and classmates."[30] Statistics also indicate that girl children in South Africa have a higher probability of being sexually assaulted than of being able to read.[31]

Sexual violence in schools has been a priority concern for the public and for the DBE since the early 2000s.[32] In a 2001 report, Human Rights Watch found that sexual violence against girls "permeates the whole of the South African education system."[33]

**The report highlighted that female learners are victims of rape, sexual assault and harassment by educators and male learners.[34]**

In 2006, the SAHRC noted that sexual violence, including abuse perpetrated by educators, was one of the most prevalent forms of violence.[35] The SAHRC further noted that the impacts of sexual violence against learners are exacerbated by poor access to other social services such as access to healthcare services.[36]

The prevalence of these crimes, particularly by educators, prompted the then Minister of Basic Education to declare that "there must be an end to the practice of male educators demanding sex with schoolgirls or female educators. It shows selfish disrespect for the rights and dignity of women and young girls. Having sex with learners betrays the trust of the community. It is also against the law. It is a disciplinary offence".[37]

SACE, a statutory body charged with developing and maintaining ethical and professional standards for educators, reports annually on the number of complaints of alleged abuse by educators. In 2024/25, SACE reported a slight increase in incidents involving assault and corporal punishment of learners as well as sexual abuse of learners.[38] Importantly, the annual report noted that the increase in corporal punishment and sexual abuse was consistent with a trend observed over the years.[39] This highlights the rampant nature of corporal punishment and sexual violence against children and raises concerns about the effectiveness of the various legislative measures, which are meant to protect them.

The various reports and inquiries into the state of violence within schools have consistently highlighted failures to implement measures that effectively protect children from violence in the school environment.[40] A study by the Centre for Applied Legal Studies ("CALS")[41] interrogated the systemic failures and noted that some of the factors that contributed to sexual violence in schools included lengthy court processes and dysfunctional prosecutorial processes that diminish the public's trust in the justice system and lead to low reporting of sexual violence incidents. A central finding was that the lack of educator accountability created a gap in addressing the scourge of sexual violence in schools.

27. Id.
28. South African Council of Educators Annual report 2024/2025, available at https://www.sace.org.za/assets/documents/uploads/sace_50934-2025-12-04-SACE_2024_25_Annual_Report_FINAL.pdf page 47
29. Id.
30. Id.
31. Cloete, N., "Where Have the Children Gone? Shocking Statistics a Concern for Experts" (2022), available at https://www.iol.co.za/saturday-star/news/where-have-the-children-gone-shocking-statistics-a-concern-for-experts-30092c7b-44a8-406d-ab40-4e18dbf6a876
32. South African Government News Agency, "Collective action needed to curb school violence, says Minister Gwarube" (2026), available at https://www.sanews.gov.za/south-africa/collective-action-needed-curb-school-violence-says-minister-gwarube
33. Human Rights Watch, "*Scared at school: sexual violence against girls at South African schools*" (2001), available at https://www.hrw.org/reports/2001/safrica/index.htm#TopOfPage Accessed 27 October 2025.
34. Id.
35. South African Human Rights Commission, above n19.
36. Id page 7.
37. Department of Education, "The HIV/AIDS emergency Guidelines for educators" (2003), available at https://www.education.gov.za/Portals/0/Documents/Manuals/DEPARTMENT%20OF%20EDUCATION%20GUIDELINES%20FOR%20DUCATORS.pdf?ver=2008-03-05-104407-000 at page 5.
38. South Africa Council of Educators, "Annual Report 2024/25", available at https://www.sace.org.za/assets/documents/uploads/sace_50934-2025-12-04-SACE_2024_25_Annual_Report_FINAL.pdf
39. Id page 47.
40. See South African Human Rights Commission, above n 19; Human Rights Watch, above n33.
41. Centre for Applied Studies and Cornell Law School's Avon Global Centre for Women, Justice and International Human Rights Clinic, Sexual Violence by Educators in South African Schools: Gaps in Accountability (2014) www.wits.ac.za/media/wits-university/faculties-and-schools/commerce-law-and-management/research-entities/cals/documents/programmes/gender/Sexual%20Violence%20by%20Educators%20Size%20180270%20NEW.pdf

More than two decades since the SAHRC inquiries and a decade since the CALS study, incidents of violence against children in the schools are reported to be on the increase[42] and accountability gaps remain a concern.[43]

**Given the surge in violence in schools, ensuring safety and security in schools has become paramount for effective teaching and learning in South Africa. Evidence around the world shows that violence against children can be prevented.[44]**

South Africa has taken a wide range of robust legislative measures to curb violence against children. Relevant to this report, is the introduction of two registers, the NRSO[45] and the NCPR to monitor persons who have been found guilty of sexual offences against children or mentally disabled persons, or those who have been found unsuitable to work with children, respectively. This report focuses on the implementation of the latter.

The NCPR has been in effect for over 16 years. Despite its very clear objectives and importance as one of the tools that have been established to address sexual violence against children, particularly in the school environment, it remains under-utilised[46] thus creating a serious risk to the effectiveness of the entire child protection framework. This report interrogates the efficacy of the NCPR.

First, the report sets out the legal framework for child protection within which the NCPR operates, outlining the legislative intention behind the NCPR. It then discusses the NCPR's features, application, and provides an overview of the extent to which the NCPR has been used to date. The report concludes with some recommendations to strengthen the efficacy of the NCPR.

42. South African Human Rights Commission, "Sexual Violence at Schools Stakeholder Roundtable Concept Note" available at https://www.sahrc.org.za/home/21/files/Concept%20Note%20Webinar%20on%20Sexual%20Violence%20at%20Schools.pdf.
43. South African Human Rights Commission, above n19.
44. Global status report on preventing violence against children. Geneva: World Health Organization; 2020 https://www.unicef.org/sites/default/files/2020-06/Global-status-report-on-preventing-violence-against-children-2020.pdf
45. The National Register for Sexual Offenders is established in terms of section 42 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (SoRMA). The Act provides for a Registrar of the NRSO who is responsible for its maintenance. The NRSO is a record of all persons found guilty of rape and sexual assault in the various courts.
46. South African Human Rights Commission Report: *Waters v National Department of Social Development* GP/2012/309; See also The National Child Protection Register-PMG', available at https://static.pmg.org.za/docs/120515npcr-edit.pdf (Accessed 29 April 2025).

# 2. The Legal Framework for the Protection of Children's Rights

The legal framework for child protection should provide a safety net for children. The right to be free from all forms of violence is guaranteed in various international and regional legal instruments that South Africa has ratified. Fulfilment of this right is critical to the enjoyment of other fundamental rights such as the right to education, health, dignity and equality. It is a prerequisite for security, and economic, cultural and social stability. Several international and regional instruments also provide additional protection for children's right to be protected from all forms of violence at all times.

## i. International Law

South Africa is a state party to the Universal Declaration on Human Rights ("UDHR"),[47] a foundational document that enshrines fundamental human rights that must be universally protected. Among these rights are the rights to life, liberty, and security of the person,[48] as well as the right not to be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.[49] Although the UDHR is non-binding, it establishes the global framework for human rights, and its principles have been incorporated into South African law.[50]

South Africa is also a state party to the United Nations Convention on the Rights of the Child ("UNCRC")[51] and the Convention on the Elimination of Violence against Women ("CEDAW").[52] Article 19 of the UNCRC provides for the right of the child to freedom from all forms of violence. It places an obligation on state parties to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical and mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s), or any person who has the care of the child.[53] Article 19(2) sets out some protective measures that should be taken including the establishment of social programmes necessary to support children in instances of child maltreatment.[54] General Comment 13 affirms the centrality of securing and promoting children's fundamental rights to respect for their human dignity and physical and psychological integrity, through the prevention of all forms of violence in promoting the full set of child rights in the UNCRC.[55]

**Additionally, the UNCRC states under Article 34 that state parties are to protect the child from all forms of sexual exploitation and sexual abuse.[56] State parties must take appropriate national, bilateral, and multilateral measures to prevent the inducement or coercion of a child to engage in any unlawful sexual activity.[57]**

Article 4 of the CEDAW obligates states to implement all appropriate means, and without delay, a policy of eliminating violence against women, to develop penal, civil, labour, and administrative sanctions in domestic legislation to punish and redress wrongs caused to women who are subjected to violence. In relation to children's rights, the CEDAW complements the UNCRC by reinforcing the rights of the girl child to be protected from all forms of violence. This additional recognition recognises that disproportionate exposure of girls to violence.[58]

## ii. African Regional Law

The African Charter on the Rights and Welfare of the Child ("ACRWC") reinforces the obligations set out in the UNCRC. Article 16 of the ACRWC deals with the protection against child abuse and torture, and highlights the need for effective procedures to establish special monitoring units to provide necessary support for the child.[59] It further states that such protective measures shall include effective procedures for the establishment of special monitoring units to provide necessary support for the child and for those who have the care of the child, as well as other forms of prevention.[60] Article 27 of the

47. United Nations General Assembly, Universal Declaration of Human Rights ("UDHR"), adopted 10 December 1948, UN Doc A/RES/217 A (III).
48. Id, Article 3.
49. UDHR, Article 5.
50. See for example the preamble of the Children's Act 38 of 2005 makes reference to the Universal Declaration of Human Rights.
51. Convention on the Rights of the Child ("CRC"), adopted 20 November 1989, entered into force 2 September 1990, UN Doc A/RES/44/25, 1577 UNTS 3. See also South African Parliament https://www.parliament.gov.za/storage/app/media/Pages/2019/november/19-11-2019_30_Year_Commemoration_of_the_United_Nations_Convention_on_the_Rights_of_the_Child/docs/FAST_FACTS_UNCRC_draft_2_19_November_2019final.pdf?form=MG0AV3&utm_source=copilot.com>. South Africa ratified the CRC in 1995.
52. Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW"), adopted 18 December 1979, entered into force 3 September 1981, UN Doc A/RES/34/180, 1249 UNTS 13. See also Department of Justice and Constitutional Development available at https://www.justice.gov.za/policy/african%20charter/afr-charter03.html?form=MG0AV3&form=MG0AV3&utm_source=copilot.com South Africa ratified the CEDAW in 1995.
53. CRC above n51, Article 19(1).
54. CRC above n51, Article 19(2).
55. Committee on the Rights of the Child, 'The right of the child to freedom from all forms of violence (Art 19) (General Comment No. 13 18 April 2011', UN CRC/C/GC/13at para 13.
56. CRC above n51, Article 34.
57. Id.
58. See for example, Statistics South Africa, above n12.
59. African Charter on the Rights and Welfare of the Child, available at https://au.int/sites/default/files/treaties/36804-treaty-african_charter_on_rights_welfare_of_the_child.pdf (Accessed 31 March 2025).
60. Id, Article 26.

ACRWC protects children from sexual exploitation and sexual abuse.[61]
The Protocol to the African Charter on Human and Peoples' rights on the Rights of Women in Africa ("Maputo Protocol") under Article 3, promotes a woman and girl's right to inherent dignity.[62] Article 3(d) is explicit that women should be protected against all forms of abuse.[63] Article 4(2)(a) to (c) mandates a state to put in place measures that prevent sexual violence against women and girls.[64] Article 12 of the Maputo Protocol provides for girls' and women's right to education and training.[65] The Article provides that state parties must take all steps to eliminate discrimination against women and girls in schools. Article 12(1)(c) calls on states to protect women and girls from abuse and sexual harassment in schools.[66]

In addition to binding international and African regional treaties, South Africa has also adopted non-binding political declarations. Target 16.2 of the 2030 Agenda for Sustainable Development Goals ("SDG") are notable in their aim to end abuse, exploitation, trafficking, torture and all forms of violence against children.[67] To accelerate the achievement of Target 16.2 of the SDGs, the United Nations recommends amongst others, the strengthening and enforcement of legislative frameworks to prohibit violence against children, and to implement evidence-based solutions that have shown success in reducing violence against children.[68]

## iii. Domestic Law

### a. Constitution of the Republic of South Africa

The Constitution of the Republic of South Africa, 1996 (the "Constitution") provides for the right to be protected from violence in several sections.[69] First, section 12(1) provides that everyone has the right to freedom and security of the person which includes the right to be free from all forms of violence from both public and private sources, and the right to not be treated or punished in a cruel, inhuman or degrading way. It provides additional protections to children in section 28(1)(d), which provides that every child has the right to be protected from maltreatment, neglect, abuse or degradation. The active phrasing "to be protected from" makes it clear that the state bears a special duty to take proactive steps to prevent violence towards children and to act swiftly to prevent further harm when a child has experienced violence. Section 28(2) of the Constitution further states that a child's best interests are of paramount importance in every matter concerning the child.
The right to freedom from all forms of violence is also related to other constitutional rights such as the right to equality[70] and the right to dignity.[71] Section 9 of the Constitution prohibits discrimination against anyone on grounds including race, colour, ethnic or social origin, and birth. According to Statistics South Africa, most children who experience some form of violence are Black and female, with Black female children being more likely to experience sexual violence. Violence against children therefore implicates the right to equality.

**The right to be free from violence also implicates the right to basic education[72] which is an immediately realisable right.[73]**

An environment in which children are free from violence, fear of violence, and are treated with dignity is a prerequisite for the enjoyment of the right to basic education. This was the basis on which corporal punishment was abolished in both public institutions and in the home.[74]

The Constitution places obligations on the state to ensure the realisation of all rights. The state has duties in terms of section 7(2) of the Constitution, to respect, protect, promote, and fulfil the rights in the Bill of Rights. The duty to respect human rights means that the state must refrain from directly or indirectly denying or limiting equal enjoyment of fundamental rights.
The obligation to fulfil requires states to adopt appropriate legislative, administrative, budgetary and other measures to ensure the realisation of human rights. To protect fundamental rights, the state must take measures to prevent third parties from interfering with the realisation of rights.[75] To this effect, the state has passed various laws and adopted policies aimed at preventing violence against children.

61. Id, Article 27.
62. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa ("Maputo Protocol"), adopted 11 July 2003, entered into force 25 November 2005, AU Doc CAB/LEG/66.6. South Africa ratified the Maputo Protocol in 2004.
63. Id, Article3.
64. Above n64, Article 3(d).
65. Above n64 Article 12.
66. Above n64, Article 21.
67. UN Sustainable Development Goals Target 16.2 available at https://sdg16now.org/report/target16-2/.
68. Id.
69. The Constitution of the Republic, 1996.
70. Id, section 9.
71. Above n69, section 10.
72. The Constitution above n69, section 29.
73. *Governing Body of the Juma Musjid Primary School v Ahmed Asruff Essay* NO 2011(8) BCLR 761 (CC) at paragraph 37.
74. *S v Williams* 1995 (3) SA 632 (CC); and see also *Freedom of Religion South Africa v Minister of Justice and Constitutional Development and Others* 2020 (1) SA 1 (CC).
75. *Sonke Gender Justice NPC v President of the Republic of South Africa* 2021 (3) BCLR 269 (CC) at paragraph 41.

**b. Legislation**

### *Children's Act 38 of 2005*

The Children's Act is the most comprehensive legislation to give effect to children's rights.[76] It binds natural and juristic persons, such as schools and other state institutions.[77] Its objectives are, amongst others, to set out principles relating to the care and protection of children, and to create new offences relating to children. Importantly, the Children's Act sets out the best interests of the child standard and reiterates that in all matters concerning the care, protection, and well-being of a child, the standard that the child's best interest is of paramount importance must be applied.[78]

Chapter 7 of the Children's Act sets out the provisions relevant to the protection of children. Sections 111 to 128 govern the establishment and maintenance of the NCPR, an official database that captures the names of individuals who have been found guilty of offenses related to child abuse. It is one of the tools used to enhance the government's child protection initiatives and ensure that individuals who are convicted of crimes against children are restricted from working with children in the future.

### *Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007*

The Criminal Law (Sexual Offences and Related Matters) Amendment Act ("SORMA")[79] introduced comprehensive provisions relating to sexual offences against children[80] and persons with mental disabilities.[81] The preamble of the Act acknowledges the vulnerability of children and mentally disabled persons and accordingly states that the expansion of the offences "aims to address the particular vulnerability of children and persons who are mentally disabled in respect of sexual abuse and exploitation". SORMA also provides for the establishment and management of the NRSO[82] which contains a confidential record of persons convicted to sexual offences against children and against mentally disabled persons.[83] Persons whose records appear on the NRSO are prohibited from taking up employment that places them in a position to work with or have access to, or authority over children or persons who are mentally disabled.[84] Chapter 6 of SORMA provides for comprehensive procedures with reference to the NRSO including access to the NRSO and the obligations on certain employers to establish whether the particulars of an employee are contained in the NRSO. Whilst the NCPR and the NRSO serve similar purposes, they are distinct registers with a unique but overlapping scope. The NRSO contains particulars of persons convicted of criminal offences whilst as is shown below, the NCPR contains particulars of persons declared unsuitable to work with children.

### *South African Schools Act 84 of 1996*

The South African Schools Act ("SASA") provides that a school code of conduct needs to be drawn up by the School Governing Body ("SGB") to regulate behaviour and relationships in schools. This code of conduct should indicate steps to be taken when a learner commits a serious offence at school, such as sexual violence.[85]

### *Employment of Educators Act 76 of 1998*

The Employment of Educators Act ("EEA") regulates the relationship between departments of education and their employees. Chapter 3 of the EEA regulates the appointment of educators, whether through the filling of vacancies, transfers, and secondments, or the conversion of temporary to permanent positions. Furthermore, it sets out the disciplinary measures to be followed when an educator commits an offence. In terms of section 17(1) of the EEA, sexual assault committed against a learner or other employees, and having a sexual relationship with a learner at the school where the educator is employed, are offences constituting serious misconduct. In the case of a guilty finding of a serious misconduct offence, the employer must dismiss the educator. The various forms of misconduct are listed in Chapter 5 of the EEA. This chapter must be read with Schedules 1 and 2 of the EEA. Chapter 5 provides an overview of misconduct, serious misconduct, and the steps that should be taken in response to misconduct. It makes provision for appeal processes. Finally, Chapter 5 of the EEA states that the records of the discipline process must be made available to SACE.

### *Terms and conditions of Employment of Educators Determined in Terms of Section 4 of the Employment of Educators Act*[86]

In 2021, the Minister of Basic Education. published a schedule to deal with the prevention of re-employment of former educators discharged or deemed discharged for misconduct or deemed resigned. The schedule lists various types of misconduct and the mandatory period for which someone found guilty of that misconduct is barred from being re-employed by the department.

76. The Children's Act 2005, The Children's Amendment Act 2007.
77. Id.
78. Children's Act, above n76, s9.
82. SORMA above, n79, Chapter 6.
83. SORMA above n79, section 49 - 50.
84. SORMA above n79, s41.
85. The South African Schools Act 84 of 1996, s 8.
86. Terms and conditions of Employment of Educators Determined in Terms of Section 4 of the Employment of Educators Act GG 44433 April 2021.

A person found guilty of sexual offences against children or people with mental disabilities and whose name appears on the NRSO or NCPR is prevented from employment until they are removed from the registers. A person found guilty of sexual assault on a learner, student, or employee, or of having a sexual relationship with a learner of the school is indefinitely barred from re-employment. The Schedule further provides a directive on the process to be followed when a discharged employee applies for re-employment. This includes proof of re-registration with SACE and any conditions attached thereto and proof that the applicant does not appear on the CPR or the NRSO.

### *South African Council of Educators Act 31 of 2000*

The SACE Act establishes SACE and charges it with the responsibility of regulating the teaching profession.

Section 23(1) provides that an educator may be removed from the SACE register of educators if the Code of Ethics is breached.[87] Any form of misconduct constitutes a breach of the Code of Ethics, including any form of sexual abuse or improper physical contact.

**c. Policy**

### *Protocol for the Management and Reporting of Sexual Abuse and Harassment in Schools, 2019*

The DBE developed the Protocol for the Management and Reporting of Sexual Abuse and Harassment in Schools in 2019 ("the Sexual Abuse and Harassment Protocol"), to curb sexual violence in schools.[88] The Sexual Abuse and Harassment Protocol establishes a guide for the management and reporting of sexual abuse, and an appropriate and timely response to sexual abuse and harassment perpetrated against learners and school staff.[89]

The Protocol sets out the obligations of the various role players when an incident of sexual assault or harassment is lodged at a school. These role players include educators, principals, districts, and the provincial education department ("PEDs") and SGBs.

SGBs must ensure that, before appointment, all SGB appointees and SGB appointed employees employed at their school are screened.[90] This includes appointments of SGB members, volunteers, and individuals who work indirectly with children, such as administrative, security, and maintenance staff.[91] The SGB must check whether applicants are listed on the NCPR or the NRSO and ensure that prospective educators are registered with SACE.[92] After the appointment of an educator, the SGB must check employees against these registers every second year.[93]

**A summary of the legal roles and responsibilities assigned to various stakeholders:**

| | Department of Social Development | Department of Basic Education and provincial education departments | Department of Justice & Constitutional Development | School governing bodies | South African Council of Educators |
|---|---|---|---|---|---|
| Duty maintain and update the NCPR | ✓ | | | | |
| Duty to maintain and update the NRSO | | | ✓ | | |
| Duty to report criminal convictions that automatically render persons unsuitable to work with children | | | ✓ | | |
| Duty to report to DSD findings from civil court proceedings or from disciplinary proceedings, that a person is unsuitable to work with children | | ✓ | | ✓ | |
| Duty to vet employees against the NCPR | | ✓ | | ✓ | ✓ |
| Duty to maintain and update a register of educators | | | | | ✓ |

87. South African Council for Educators Act 31 2000.
88. Department of Basic Education, Protocol for the Management and Reporting of Sexual Abuse and Harassment in Schools available at https://www.education.gov.za/Portals/0/DoE%20Showcase/Launch%20of%20protocol/Sexual%20Abuse%20and%20Harassment%20in%20Schools%20march%202019%20.pdf
89. Id page 14.
90. Id.
91. Id.
92. Id.
93. Id.

# 3. The National Child Protection Register: a tool to minimise violence against children

Section 111 of the Children's Act establishes the NCPR. The NCPR provides a broader scope of accountability than the NRSOby making provision for the inclusion of persons found guilty through court processes and through disciplinary proceedings. The various state departments have constitutional duties to protect the rights of children. The Children's Act places obligations on the Departments of Social Development ("DSD"), DBE and PEDs, Justice and Constitutional Development ("DOJ&CD"), and the SAPS to report and vet educators and persons who are unsuitable to work with children on the NCPR.

## NCPR

- ☑ Regulated by the Children's Act
- ☑ DSD is the custodian of the NCPR
- ☑ The Director-General of DSD is responsible for the management of the NCPR Includes persons who are deemed unsuitable to work with children. These include:
  - if they are found guilty of murder, assault, or any sexual crime, including rape and sexual assault; or
  - if the Children's Court or any other court finds that the person is unsuitable to work with children following a criminal or civil proceeding; or
  - or by a disciplinary committee established by law.

## NRSO

- ☑ Regulated by SoRMA
- ☑ DOJ&CD is the custodian of the NRSO
- ☑ The Registrar of the NRSO manages the NRSO
- ☑ The NRSO includes all persons convicted of murder, assault, and sexual crimes.

## The objectives of the NCPR include to:

1. have a record of abuse or deliberate neglect inflicted on specific children.
2. have a record of the circumstances surrounding the abuse or deliberate neglect inflicted on children.
3. use the information in the register to protect children from further abuse and neglect, and
4. keep a record of persons found to be unsuitable to work with children.

## i. Key Features

Section 111 of the Children's Act provides that the Director-General ("DG") of the DSD must keep and maintain the NCPR, which will consist of two parts[94] that must be kept confidential, only to be accessed and disclosed in line with the Children's Act.[95]

The purpose of Part A of the CPR is to maintain a record of all reports of abuse or deliberate neglect against specific children, including the circumstances surrounding the abuse or deliberate neglect.[96] This information must be used to protect those children from further abuse and to monitor cases and services for them.[97] Additionally, Part A of the NCPR must be used to determine patterns and trends of abuse or deliberate neglect of children, all of which is critical for planning and budgetary purposes to prevent the abuse and deliberate neglect of children and protect children at all levels of government.[98]

The records in Part A of the NCPR must consist all reports of abuse or deliberate neglect of a child that are made to the DG;[99] all convictions of all persons on charges involving the abuse or deliberate neglect of a child;[100] and all findings by a Children's Court that a child needs care and protection because of abuse or deliberate neglect of the child[101] Part A includes personal details of the child, such as age and gender, as well as information on the incident/situation, which necessitates the child needing protection. The information on this part of the NCPR may only be accessed by the DG or provincial officials of the DSD, child protection organisations, SAPS, and people conducting research.

Part B of the NCPR is regulated by sections 118, 119, and 120 of the Children's Act. Section 118 of the Children's Act states that the objectives of Part B of the NCPR is to establish and keep a record of people deemed "unsuitable to work with children" so that these people are not allowed to work with children. It contains a list of persons who are found unsuitable to work with children.

**A finding that one is unsuitable to work with children is made:**

**1** if they are found guilty of murder, assault, or any sexual crime, including rape and sexual assault;[102]

**2** if the Children's Court or any other court finds that the person is unsuitable to work with children following a criminal or civil proceeding;[103]

**3** by a disciplinary committee established by law.[104]

A finding that one is unsuitable to work with children is made:

1. if they are found guilty of murder, assault, or any sexual crime, including rape and sexual assault; or[102]
2. if the Children's Court or any other court finds that the person is unsuitable to work with children following a criminal or civil proceeding; or[103]
3. by a disciplinary committee established by law.[104]

Every person who has been found unsuitable to work with children has a right to appeal or request a review of the finding to a higher court, or a lower court should the finding have been made by a disciplinary committee. The application, as well as the outcome of this appeal/review must be reported to the DSD, who will remove or confirm the name of the said person on the NCPR, depending on the outcome of the appeal/review.

**Following such a finding:**

- The Registrar of a court, must provide the DSD with all convictions of all persons on charges involving child abuse or deliberate neglect, including the details of the child involved.
- The names and details of such convicted offenders or persons found unsuitable to work with

94. Children's Act above n76, s111.
95. Children's Act above n76, s112 (1).
96. Children's Act above n76, s113 (a)-(b).
97. Children's Act above n76, s113 (c)-(d).
98. Children's Act above n76, s113 (f)-(g).
99. Children's Act above n76, s114 (1)(a).
100. Children's Act above n76, s114 (1)(b).
101. Children's Act above n76, s114 (1)(c).
102. Section 120(4) of the Children's Act states that a person is automatically considered unsuitable to work with children upon being convicted of either murder, attempted murder, rape, indecent assault, or with the intent to do grievous bodily harm to a child.
103. Children's Act above n76,s120.
104. Children's Act above n76,s120 (1)(c).

children must be submitted to the DSD by the courts and/or disciplinary committee, by means of the forms 25 and 28 of the Regulations of the Children's Act. Upon receiving these forms, the DSD must enter the relevant information into the NCPR.

- Employers can vet their current and prospective employees against information recorded on the NCPR.[105] Once unsuitability is confirmed, the affected person must be informed of his or her status as well as his/her right to review/appeal in writing.
- Section 123(1)(a) of the Children's Act bars anyone whose name appears on the NCPR from working at a school or any other place where they may have access to children, thus protecting other children from harm. Furthermore, section 123(2) prohibits anyone who manages or operates a school from allowing a person whose name appears on Part B of the register to work with children or have access to children.
- A person may also apply for the removal of his/her name from the NCPR if certain conditions are met and the person is rehabilitated.[106]

The dual structure of the NCPR creates a comprehensive monitoring system that aims to ensure that children who have been abused are protected and provided with the necessary psychosocial support, and to prevent persons with concerning histories from gaining access to children through employment or volunteer positions.

## ii. Access to the NCPR

The NCPR is not available to the public. Instead, people in designated child protection organisations, as well as members of the police who work on child protection, have access to the register. Section 125(1)(a) -(e) of the Children's Act provides for DG of DSD to designate DSD officials and other persons who may access the NCPR for purposes of implementing section 123 in relation to schools under the jurisdiction of that department. The Act further provides for designation of officials in the PED who can have to access to NCPR.[107] All institutions working with children should check the list and vet against the NCPR before employing anyone. This information can be obtained by writing to the DG of the DSD on a confidential basis. The DG is required to respond in writing within 21 working days to indicate whether the person's name appears on Part B of the NCPR.

## iii. The effectiveness of Part B of the NCPR

Part B of the NCPR achieves its objectives in two ways related ways. First, it is meant to assist with preventing the employment of persons who have been deemed unsuitable to work with children, and second, to remove current employees who are deemed after already being employed to be unsuitable to work with children post. It therefore functions as a screening tool. If fully utilised, the NCPR has the effect of ensuring that persons who pose a risk to the safety and security of children are not employed or do not continue to be employed in environments where they work with children, such as schools and early child development centres.

The efficacy of Part B of the NCPR as a screening tool is directly linked to whether it is updated regularly. Whilst the responsibility to maintain and update the NCPR rests with the DSD, it can only discharge this responsibility with the collaboration of other government departments. First, it requires Registrars of courts to provide the DSD with the names of persons convicted of crimes against children so that they can be included in the NCPR. Second, it requires other public and private institutions who, through disciplinary proceedings, make a finding that a person is unsuitable to work with children, to report those findings to the DSD so that they can also be included in the NCPR. Failure to report these convictions and findings to the DSD, or failure to do so timeously, severely compromises the completeness of the NCPR and in turn, its effectiveness. However, the existence of an updated NCPR alone is not enough. Employers in sectors responsible for children, e.g. early childhood development centres or schools, must vet their employees against this register. Failure to do so renders the NCPR a white elephant. In 2019, the DSD reported that there were 9153 reported cases of child abuse, neglect and exploitation on Part A of the NCPR whilst Part B contained 509 names of persons declared unsuitable to work with children. The DSD received 140 029 suitability check enquiries from employers.[108] Whilst they did not provide disaggregated numbers in relation to the enquiries from various government departments, it appears that the DBE has historically favoured vetting against the NRSO rather than the NCPR. In 2025, the Minister of Basic Education reported to the Portfolio Committee on Basic Education that only 19% of educators had been vetted against the NRSO. There was no mention of concerted efforts to vet educators against the NCPR.[109]

105. Section 126(2) of the Children's Act obligates people managing or operating schools to vet anyone who is employed at the school or has access to children against the NCPR, within 12 months of the Act coming into operation. The DG of DSD has granted provincial departments of education direct access to Part B of the NCPR in order to conduct their employee screening.
106. Children's Act, above n76, s128.
107. Children's Act above n76,s125(2).
108. Department of Social Development, "DSD: Social Development calls on employers to verify their employees on Child Protection Register" (2019), available at https://www.workinfo.org/index.php/articles/item/2026-dsd-social-development-calls-on-employers-to-verify-their-employees-on-child-protection-register.
109. Parliamentary Monitoring 19 December 2025 Group Question NW7269 to the Minister of Basic Education available at https://pmg.org.za/committee-question/35173/.

**Table 2 reflects the number of educators, per province, who have been vetted against the NCPR. It shows that, as of March 2025, only 12% percent of the total number of educators had been vetted against NCPR, 15 years after its inception.**

| PROVINCE | Number of educators vetted against the NCPR as of March 2025 | Number of educators in 2022 | Percentage (%) of educators vetted against the NCPR |
|---|---|---|---|
| Eastern Cape | 246 | 57 509 | 0.4 |
| Free State | 15685 | 23 114 | 67.9 |
| Gauteng | 19406 | 71 966 | 27.0 |
| Kwa-Zulu Natal | 487 | 91 298 | 0.5 |
| Mpumalanga | 82 | 35 199 | 0.2 |
| North-West | 544 | 27 232 | 2.00 |
| Western Cape | 9835 | 38 662 | 25.44 |
| Limpopo | 189 | 50 599 | 0.37 |
| Northern Cape | 2753 | 10 127 | 27.18 |
| **TOTAL** | **49227** | **405706** | **12.13** |

## iv. Challenges facing the National Child Protection Register

Since coming into law in 2010, the implementation of the NCPR has been plagued by various challenges, all of which have impacted its effectiveness. The first notable challenge is the inter-departmental nature of the NCPR. The maintenance of the NCPR requires collaboration primarily between the DSD as the NCPR's custodian, and the DOJ&CD which is responsible for facilitating the inclusion of entries associated with criminal convictions. As noted in the report, the DSD also relies on various to stakeholders to submit records which are used to update the NCPR. Any delays or failures by the DOJ&CD, as well as other stakeholders, impact the DSD's ability to update and maintain the NCPR. Such levels of collaboration require clear communication between stakeholders, and accountability measures to address failures. To facilitate coordination and collaboration among the relevant government departments, and between the government and non-governmental stakeholders, child protection committees have been established at all three levels of government. [110] However, these committees have not functioned optimally largely due to non-participation by the government departments, and due to a lack of protocol at the provincial and local levels.[111]

In 2012, the DSD and DOJ&CD submitted a presentation to Parliament on the implementation of the NCPR in which they highlighted various challenges in relation to its maintenance.[112] Both departments attributed some of the challenges to a lack of human resources but reported that measures were being taken to train judicial officers and other relevant personnel. The lack of human resources contributed to the delays in filing and processing of reports for inclusion in the NCPR. The challenges were further exacerbated by the lack of public awareness around preparing compliant inquiries, resulting in unnecessary backlogs created by incomplete inquiries. This creates inefficiencies in a system that is already under strain.

Another significant challenge impacting the completeness of the NCPR and ultimately its efficacy is the failure by both state and non-state actors to comply with section 120(1)(c) of the Children's Act. The provision states that any forum established or recognised by law in any disciplinary proceedings concerning the conduct of that person relating to a child may make a finding that a person is unsuitable to work with children. This provision requires several things: (i) the establishment of such forums; (ii) the forums to be aware of their powers and obligations; and (iii) for the forums to discharge their adjudicative functions.

110. Fact Sheet on National Child Protection System in South Africa, Save the Children's Resource Centre 2010 available at https://resourcecentre.savethechildren.net/pdf/4445.pdf.
111. Id.
112. The National Child Protection Register-PMG' https://static.pmg.org.za/docs/120515npcr-edit.pdf.

The fragmented nature of the laws governing employees in schools has led to confusion over who the duty bearers are, and what their duties are. For instance, some educators and support staff within schools are employed by SGBs. As such, in terms of the Children's Act, SGBs bear the responsibilities of vetting their employees, and for reporting to the DSD all employees have been deemed unsuitable to work with children. However, since the EEA does not recognise SGBs as employers of educators, SGBs have not been vetting their appointees against the NCPR. Further, where the SGBs have conducted disciplinary proceedings against educators, and the findings are such that the educator is deemed unsuitable to work with children, SGBs have not forwarded these outcomes to the DSD.

**Whilst the failure by SGBs has been attributed to gaps in the law, these gaps are perceived but are not real.**

First, section 3(4) of the EEA, read with section 20(4) of the SASA, permits public schools to establish posts additional to those established through the DBE. In respect of such posts, the public school is the employer.[113] Second, the Children's Act is clear that employers, whether by statute or by common law, have obligations to vet and report to the DSD. The Protocol on also emphasises SGB responsibilities in relation to the NCPR.[114]

113. *Laudium Secondary School Governing Body v Mooloo* (JS793/21) [2024] ZALCJHB 177.
114. Department of Basic Education, Sexual Abuse Protocol above n88,14.

CASE STUDY

### *EM OBO BM v Peter Diale and Others (Case no. M592/21)*

*SECTION27 and the Teddy Bear Clinic ("TBC") represented the family of a 12-year-old learner who was raped on school premises by a caretaker employed by the SGB of a public primary school in the North West in 2015. Despite multiple attempts by the family to open a case at the local police station and report the matter to the school and provincial education officials, no action was taken by either the police or education authorities, and the perpetrator continued to work at the school.*

*After the family approached SECTION27 for assistance, SECTION27 represented the family and the TBC to ensure that North West Department of Education ("NWDoE") conducted an investigation and instituted disciplinary processes. Eventually, a disciplinary panel established by the SGB found the caretaker guilty. The caretaker was subsequently dismissed from employment at the school in June 2022. However, steps were not taken to report the finding to the DSD, as required by section 122 of the Children's Act.*

*On 3 August 2022, SECTION27 contacted legal representatives of the NWDoE, reminding them of their obligations in terms of the Children's Act and requesting that they provide the perpetrator's particulars to the DSD. The NWDoE again failed to comply with their obligations.*

*In January 2023, SECTION27 communicated directly with the DSD to get the perpetrator's details placed on the NCPR in line with section 122 of the Children's Act. On 29 March 2023, approximately eight months after the findings of the disciplinary panel, DSD informed SECTION27 that the perpetrator was finally placed on the NCPR.*

# 4. Conclusion & recommendations

Violence against children continues to leave a dark stain on South Africa. The declaration that corporal punishment is unlawful, as well as the passing of various pieces of legislation that criminalise sexual abuse, do not seem to have abated these crimes.

**The NCPR has the potential to curb violence against children in schools and other educational settings. However, since its promulgation in 2010, the NCPR has not been used to its full potential and is grossly underused by the responsible stakeholders such as the DBE. In light of the challenges above, we make the following recommendations:**

1. At the time of this report, the DSD had published a Draft Amendment Bill to the Children's Act,[115] which proposed amongst others, the establishment of a Registrar of the NCPR. The introduction of a Registrar of the NCPR would facilitate coordination between relevant stakeholders and ensure transparency and accountability in the utilisation of the NCPR including through the publication of annual statistical reports to Parliament. We recommend that the proposed Amendment Bill be finalised without delay.

2. A proportion of educators and support staff in public schools are employed by SGBs. SBGs, therefore, have a critical role in the implementation of the NCPR. However, there appears to be a knowledge gap around these responsibilities, resulting in them not being effectively discharged. We therefore recommend the capacitation of SGBs to ensure that they understand and fulfil their statutory obligations.

3. There appears to be poor public awareness about the NCPR, and particularly about the responsibility to report to the DSD. We recommend public awareness campaigns about the responsibility of reporting from all entities, as outlined in the Children's Act, more especially forums that deal with disciplinary issues involving parties working with children.

4. The capacitation of officials with the DBE, PEDs, DOJ&CD and SAPS is needed to understand their roles and responsibilities with reporting to DSD persons unsuitable to work with children. DBE, PEDs, and SACE should be capacitated to train officials and staff on vetting and the operations of the NCPR.

**We therefore recommend that DSD and the DBE strengthen the capacity of the NCPR units at both national and provincial departments by employing more staff.**

115. Department of Social Development, Children's Amendment Bill, 2025 available at https://18a66295-3a0f-41fb-a13d-9849edd3b2a3.usrfiles.com/ugd/18a662_d286691f116d48fba2badf-5da54d968b.pdf.

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